

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII**

U.S. EPA Docket No. RCRA-8-2000-06

IN THE MATTER OF:	)	
	)	
The Ensign-Bickford Company	)	
7800 N. Moore Road	)	
P.O. Box 38	)	<b>AGREEMENT TO WITHDRAW</b>
Louviers, CO 80131	)	<b>FINAL CORRECTIVE ACTION</b>
	)	<b>ORDER ON CONSENT</b>
EPA ID Nos. COD075754663	)	
	)	
	)	
Respondent.	)	
_____	)	

**I. BACKGROUND**

1. The final Corrective Action Order on Consent (EPA Order) in this matter, under the authority of section 3008(h) of the Resource Conservation and Recovery Act (RCRA), became effective on May 1, 2000, between the U.S. Environmental Protection Agency (EPA) and The Ensign-Bickford Company (EBCo)(collectively, "the parties"). Work under the Order involves carrying out specified corrective action activities at the EBCo facility in Louviers, Colorado (facility).

2. In 1999, regulatory oversight for RCRA corrective action activities at the facility was transferred from the Colorado Department of Public Health and Environment (CDPHE) to EPA due to funding issues within CDPHE. In the summer of 2002, EPA, CDPHE and EBCo commenced discussions to return the EBCo facility to CDPHE oversight.

3. On November 2, 1984, EPA authorized the implementation of Colorado's hazardous waste management program in lieu of the federal RCRA program, pursuant to Section 3006 of RCRA. This includes corrective action requirements at permitted hazardous waste facilities. CDPHE implements the program in Colorado pursuant to the Colorado Hazardous Waste Act, C.R.S. §§ 25-15-301 - 306, and the Colorado Hazardous Waste Regulations, 6 CCR 1007-3, including regulations governing the submittal, approval and implementation of Corrective Action Plans (CAP), pursuant to 6 CCR 1007-3§100.26.

4. By letter dated April 29, 2003, CDPHE approved the Corrective Action Plan (CAP) submitted by EBCo (in conjunction with Dyno-Nobel) for the facility.

5. Pursuant to an executed Business Combination Agreement dated February 19, 2003, between Dyno Nobel Holdings ASA and certain EBCo entities, Dyno Nobel Inc. has acquired or is acquiring certain assets of Ensign-Bickford Industries, Inc., and The Ensign-Bickford Company, including ownership of the facility.

6. It is the intent of the parties that corrective action activities at the facility from the effective date of this Agreement be undertaken pursuant to the State-approved CAP, under the authority of the CDPHE, in accordance with the EPA-authorized RCRA program in Colorado. The parties recognize that after closing of the asset purchase and transfer of legal title for the facility pursuant to the Business Combination Agreement, Dyno-Nobel will assume responsibility for completion of corrective action activities at the facility under the CAP.

## II. AGREEMENT OF THE PARTIES

7. It is the agreement of the undersigned parties that the EPA Order shall be withdrawn, pursuant to the conditions specified in this Agreement to Withdraw Final Corrective Action Order on Consent (Agreement). Further, the parties agree that the parties reserve all rights to enforce their rights, responsibilities and obligations, if any, under the EPA Order prior to the effective date of this Agreement.

8. Within thirty (30) days of the effective date of this Agreement, EPA will forward a copy of the Agreement to CDPHE.

9. While reserving their rights with respect to matters existing prior to the effective date of this Agreement, the parties agree that this Agreement shall not impose any obligations on EBCo or EPA on or after the effective date of this Agreement.

10. Withdrawal of the EPA Order by EPA is without prejudice. EPA reserves all of its statutory powers, authorities, rights and remedies, both legal and equitable, under RCRA. EBCo reserves all of its statutory and common law rights and remedies, including cost recovery claims against third parties. This Agreement shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers and/or authorities, civil or criminal, which EPA has under any statutory, regulatory or common law authority.

11. The parties agree that upon execution by EPA of this Agreement, the Agreement shall be promptly filed with the Regional Hearing Clerk, EPA Region 8. This Agreement shall have as its effective date the date on which it is filed with the Regional Hearing Clerk, EPA Region 8.

**FOR THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY, REGION VIII,  
COMPLAINANT.**

Date: 6-25-03

By: **SIGNED**  
Sharon Kercher, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Date: 6/16/03

By: **SIGNED**  
David J. Janik, Director  
Legal Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Date: 6/18/03

By: **Steve Burkett for/**  
Stephen S. Tuber  
Assistant Regional Administrator  
Office of Partnerships and  
Regulatory Assistance

**FOR THE ENSIGN-BICKFORD COMPANY,  
RESPONDENT.**

Date: 11 June 03

By: **SIGNED**  
Michael T. Long, Esq.  
Secretary  
The Ensign-Bickford Company  
100 Grist Mill Road  
Simsbury, CT 06070

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE  
ON JUNE 26, 2003.**